

# Sexual Citizenship, Incest, and the State: “The Unseen of the Crime”

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**ABSTRACT.** This paper analyzes the colonial state’s role in manufacturing sexual violence. Deconstructing parallels between sexual violence in state detention centers and incestuous abuse of children, this paper examines theories of normativity, sexual citizenship, U.S. nationalism, and Marxist interpretations of the family unit. In identifying all citizenship as sexual citizenship—and identifying queer as all those who are denied sexual citizenship—I suggest that liberation from the state is crucial to queer liberation and the amelioration of sexual violence.

## Introduction

Sexuality and the colonial state are inseparable. Like sexuality, various sociocultural, economic, and ideological forces construct and enforce the state, but they are phantasms of collective consciousness. The colonial state is sexualized symbolically and tangibly, regulating sexuality through legal, social, and ideological control. As the colonial state regulates and influences the expression of sexuality, it equally reigns influence over the prevalence of sexual violence. Sexual desire—and sexual violence—cannot be isolated from the environment—or state—from within which they are formed. Symbiotically, nation-state formation cannot be achieved without the existence of sexual domination, as sexual dynamics are closely linked to state regulation of bodies. This intimate relationship between sexuality and statehood determines who receives rights, who does not, who is considered human, and who is not, further legitimating sexual violence.

To further my exploration of the colonial state’s role in sexual violence, I utilize a case study to analyze sexual

violence faced by queer undocumented immigrants who are not recognized or treated as human in the eyes of the heteronormative state. I also weave connections to the incestuous sexual violence I experienced as a child who possessed no recognition or legal protection from the state. This is not to suggest that either story represents a universal reality for all queer migrants or all incest survivors, or to imply that the sexual violence faced by these populations holds more significance than other marginalized groups. Rather, due to the limited scope of this essay, I compare two cases of sexual violence from starkly different positionalities to expose the structural construction of sexual violence. Through comparing the experience of a Mexican, transgender, undocumented woman with the experience of a white child from a well-to-do U.S. household, I uncover universal undercurrents that transcend identity differences to counter fragmentation of this structural epidemic. Drawing from David Evans' theory of sexual citizenship, Cathy Cohen's understanding of queer liberation, and Marxist interpretations of the family unit, I deconstruct parallels between sexual violence in detention centers and sexual violence within the family unit to prove my following claims:

- 1) Proximity to colonial constructions of normativity determines sexual citizenship.
- 2) Varying sexual violence rates correspond to varying degrees of sexual citizenship.
- 3) State detention breeds heightened violence for marginalized groups who lack sexual citizenship—the family unit is a form of state detention, and children are a marginalized group.

### **Sexual Citizenship: A Measure of the Normative**

Mainstream narratives of sexual violence center around individual blame. The thought framework oscillates from extremes of victim-blaming to demonization of

perpetrators, both echoing a common theme of interpersonal blame or gain. Absent from the discussion is the structural dimension of sexual violence and the political institutions that give birth to its manifestation. Margarita Palacios (2016) underscores that “violence is a dimension of social life, and as such, it is best studied and approached not as an aberration or anomaly of violent ‘individuals,’ but rather as something which occurs in routine social processes” (p. 610). Perpetrators and survivors alike are shaped by social positionality and “normativity.” State-sanctioned standards of normativity structure the framework of possibility in which each individual may safely express their identity—or risk violence. The “normative” is determined and policed by proximity to power; “in its most benign form it appears as a bullying insistence toward obedience to social law and hierarchy, and in its most lethal form it carries the punishment of death for resistance to them” (Villarejo, 2005, p. 69). To be “queer” means to deviate, to exist outside of the normative.

Bolstered by colonial constructions of normativity, disparities in sexual violence rates expose sexual violence as a tool of colonial control, targeting most harshly those deemed “deviant” or “queer”—anyone who differs from normative categories of gender, race, sexuality, and citizenship. Evidenced by heightened rates of sexual violence against queer and trans individuals, women of color, and incarcerated populations, sexual violence “functions as a sort of ‘identity technology,’ which aims to consolidate or annihilate certain specific (gendered/sexual/racial/national) identities” (Palacios & Posocco, 2016, p. 610). Similarly, “citizenship is not simply a normative aspiration, but a technology of governance” (Cossman, 2017, p. 14). Citizenship, a technology that consolidates identities, is enforced and policed through standards of normativity.

Individuals aspiring to the status of citizen must claim to possess the psychological, moral, and social traits that

render them good and warrant their integration...gays have claimed not only to be normal, but to exhibit valued civil qualities such as discipline, rationality, respect for the law and family values, and national pride. (Seidman, 1997, p. 323, as cited in Cossman, 2007, p. 8)

The identity technologies of sexual violence and citizenship intersect in constructing “sexual citizenship,” a term coined by David Evans to convey the ways in which sexual expression symbolically and tangibly interacts with the privileges attached to citizenship status. Brenda Cossman defines citizenship as

a set of rights and practices denoting membership and belonging in a nation-state...including not only legal and political practices but also cultural practices and representations...also...invoking the ways that different subjects are constituted as members of a polity, the ways they are, or are not, granted rights, responsibilities, and representations within the polity, as well as acknowledgement and inclusion through a multiplicity of legal, political, cultural, and social discourses. (Cossman, 2007, p. 5)

Under this definition, citizenship is directly correlated with proximity to power, and citizenship may be viewed beyond the lens of legal and political practices—it also includes immaterial, less quantifiable levels of personal autonomy granted within an institutional environment; “Sexual citizenship is therefore not only linked to notions of membership, belonging, participation, responsibilities, equity, and rights, as sexual subjects, but also about processes of exclusion from these areas. Within mainstream political and legal foundations of citizenship, the *normal* and *natural* citizen has been inherently heterosexual” (Robinson, 2016, p. 490).

Sexual citizenship, like normativity, depends upon adherence to colonial power structures; “hegemonic heteronormative sexual citizenship is also implicitly, and at some moments quite explicitly, white: non-whites are much more likely to be seen as sexual deviants, and thus as

candidates for state sexual regulation through public policy” (Richardson, 2017, p. 20). Like normativity, citizenship is contingent on historical ideals of a white, privatized, familialized, heterosexual sexuality;

Many scholars have pointed to the ways that citizenship in the United States historically privileged economically independent white men, and established different citizenship status for all other groups. The clearest example, of course, is the development in the U.S. of chattel slavery and the use of 'black codes' to deny all rights of citizenship to the African-American slave population, including restrictions on access to marriage and rights to family life. (Richardson, 2017, p. 5)

Each defined by proximity to hegemonic power, citizenship has historically served as a material evidentiary of normativity; they have bolstered each other in the regulation of bodies and power.

### **Case Study: Sexual Abuse in State Detention Centers**

In “Trans/Migrant: Christina Madrazo’s All-American Story,” Alisa Solomon (2005) shares the experience of Christina Madrazo, a transgender immigrant from Mexico seeking asylum, who was detained by the State, discriminated against by immigration services, and raped multiple times by a guard in a Miami detention center. Madrazo’s disclosure of her experiences empowered about a dozen of the one hundred women held at the detention center to share similar stories of the sexual abuse they faced. Solomon (2005) explains how immigration and asylum systems, the State, and nationalism work to exclude the “undesirable” and “how gendered and sexualized discourses of American nationalism legitimate and render extreme forms of gender and sexual violence” (p. 4). Madrazo’s status as trans and undocumented positioned her outside of heteronormative power and highly at risk of sexual violence;

The physical borders that constitute national belonging—legal citizenship—are reflective of the intangible borders of belonging that define the boundaries of gender and sexual citizenship. Without firm belonging to hegemonic categories of gender or nation, Madrazo lacked sexual citizenship and would qualify as a “sexual stranger” in the words of Shane Phelan, referring to those who are excluded and denied full political citizenship. Phelan coined this term to describe the way in which denial of full political citizenship to those on the margins of gender, race, sexuality, or nation is “at the core of contemporary American understandings and organization of common life. (Phelan, 2010, p. 5)

Sexual violence expands far beyond perpetrators of rape; it depends upon systems that neglect, protect, and uphold violence. It depends upon colonial constructions of personhood, wherein immigrants are not granted full humanity;

It's hard to imagine a person less recognized by U.S. legal regimes than a transsexual undocumented migrant from Mexico. In myriad ways, her very humanness is disavowed by the limitations of civil rights and immigration laws and the policy principles that underlie them. Christina Madrazo's plight and plea were illegible, even invisible, to the guardians of these realms. (Solomon, 2005, p. 14)

Beyond the scene of the crime, sexual violence depends upon “‘the unseen of the crime’—the various legal, juridical, and civic spheres that structurally cannot recognize Madrazo's claim, or even her personhood—thus revealing the limits of the liberal state” (Solomon, 2005, p. 4). The state is the controlling mechanism that legally determines who is granted sexual citizenship—personhood, protection, and autonomy—in effect, determining who faces violence. Simultaneously, the state directly perpetrates sexual violence based upon varying degrees of sexual citizenship, as evidenced in Madrazo's case, through

practices such as strip searches, guards' sexual abuse of prisoners, police rape, and more.

### **Case Study: Incestuous Child Sexual Abuse**

The humanness of children is disregarded by the colonial state in ways eerily similar to Madrazo's case; they lack legal autonomy, and in the case of abuse, their pleas are illegible to their legal guardians and the guardians of the legal sphere. Like immigrants and all who are detained by the state, "children are essentially a captive population, totally dependent upon their parents or other adults for their basic needs" (Herman, 1981, p. 27). Unlike Christina Madrazo, I was a white child living comfortably in the suburbs with my mother, visiting my father on the weekends due to their divorce. Like Madrazo, I was raped multiple times by a state-sanctioned authority figure: my father. After the first rape, I longed to escape but quickly realized I had no rights or personhood according to the state. Like Madrazo, I also had a language barrier: I was too young to know the words "rape," "sex," or "penis." I could not describe the act, but I expressed that I no longer wanted to visit my father on weekends. My mother was nevertheless forced by court order to relinquish my body, weekend after weekend, to the full control of my father or face legal consequences. With Western sexual education subjected primarily to the private sphere, children are granted no institutional protection, knowledge, or power to keep themselves safe from their parents—or simply communicate to their parents—if incestuous sexual abuse enters the picture.

Many times children are unable to tell us what they experience precisely because they are considered to be our property, and as such have no option in the family to be heard, particularly when they want to tell us things we do not want to hear. (Butler, 1996, p. 137)

Children's bodies are owned by their legal guardians and, like immigrants, controlled by the state. Existing outside of colonial constructions of personhood, children lack sexual citizenship.

In my case, the scene of the crime was my father's house; "the unseen of the crime" was the legal, juridical, and ideological spheres that remove children's autonomy, forcing me to visit my rapist indefinitely in the name of heteropatriarchal family norms. Nationalism is inextricably linked to the heteropatriarchal family unit, depending upon it to uphold deeply gendered/sexed cultural myths;

the heteronormative family has thus been viewed as central to the constitution of the "good" heteronormative sexual citizen subject. It has also been the institution in which the "normative" child and children's developing citizenry has been primarily regulated and monitored. (Robinson, 2016, p. 490)

The colonial state's glorification and naturalization of the heteronormative family unit enforced that it was "unhealthy" for a child to lack contact with their biological father, and the state's legal institutions were able to reign complete control over my body. Beyond the sphere of childhood, it is evident that any dynamics in which one is considered the property of the state—such as those between inmates and prisons and between immigrants and immigration detention centers—strip individuals of sexual citizenship and foster breeding grounds for hidden violence.

### **The Family Unit as a State Detention Center**

Children are controlled through state-sanctioned custody in the same manner that the state holds custody over incarcerated populations. To problematize the family unit to the same degree as other forms of state incarceration may appear extreme, yet these systems of control typically overlap;



For many survivors, especially of color, the experiences of domestic violence and rape are inextricably linked with systems of incarceration, policing, and criminalization. As many as 94 percent of the population in some women's prisons have a history of having been abused before being caged. Once incarcerated, many cis women, trans women, and gender nonconforming people experience sexual violence from guards and others. (Kaba, 2017)

Constituting a symbolic, sacred space in the American psyche, the heteronormative nuclear family represents the process through which dominant ideals of the cultural imaginary are endorsed as national ideals, then legally, economically, and socially policed; "the sphere of privacy, intimacy, and family has become the site of civic virtue" (Cossman, 2007, p. 8). Rather than viewing incest as an "exception" and the moral failure of few individuals, it is necessary to analyze structures that allow it to take place, as "discussions of interpersonal violence without a critique of state power and capitalism are at best incomplete and at worst reifications of oppressive structures that are co-constitutive of interpersonal violence" (Kaba, 2017). Under capitalism, the family unit fosters structural alienation and represents the colonial state's division between the public sphere and the private sphere;

the concept of children's rights in Western cultures have largely been articulated and considered relevant in the context of the private family home and family relationships rather than in the broader public economic, social, and political arenas. Consequently, the privatization of childhood and parent-child relationships is reinforced, as is parental decision-making on all aspects of children's private and public lives. Children's agency in their lives is limited or non-existent. (Robinson, 2016, p. 490)

Within the individualized nuclear family, children have no rights as parents essentially play the role of gods with absolute control over their children's fate. The family unit

holds the same potentialities as all detention centers; the disparate power parental guardians wield over children mirrors the power held by guards in any other state detention center. Though many are fortunate enough to be raised under safer or healthier conditions than others, it does not alter the material and the legal reality of children's marginalized status. The family unit may at times serve as a survival mechanism for various marginalized groups, and I do not intend to discount solidarity that can arise in the process of marginalized groups surviving through their family structures—rather, I problematize the systems that necessitate these avenues for survival. Despite the cultural benefits that may arise from the family structure, the legal reality of children's relationship with parental guardians reflect a relationship of ownership and property. The family may serve as an economically and emotionally feasible means of survival under state capitalism, yet the origins of the family unit come from control of capital, which I will address in the following section.

### **Privatization and Commodification of Sexuality**

Problematizing the relationship between private and public spheres, the state and the family unit, is essential because they mutually construct each other. The family unit and the state have a reciprocal relationship, bolstering each other and relying upon one another for power and legitimacy; “the state concerns itself with the gender and sexuality of its population because it is through managing life, and the reproduction of life, that the state maintains its power” (Ahlm, 2016, p. 581). To do this, the family unit is institutionalized and infused in governmental practices. As Jody Ahlm (2016) explains,

In the US, the family is a standard unit of government policy at all levels. Given that the State controls the distribution of resources, it matters a great deal how family is defined...one way the government regulates sexuality is by attaching “proper” family structure to the distribution of resources. (p. 577)

The colonial state upholds public policies, such as marriage, through incentives of economic and social capital to “promote a particular version of desirable sexual citizenship” (Richardson, 2017, p. 9). The all-encompassing power of state capitalism gives birth to the rigid individualism of the family unit, as modes of production shape the structure of daily life. The privatized family unit arose from the familialization of citizenship, “whereby once public goods and services are transferred back to the realm of the family” (Cossman, 2007, p. 11). In the absence of avenues for survival and equitable resource distribution through the state, “families are increasingly expected to take care of their own” (p. 11). I argue that U.S. cultural idealization of the family structure is a product of our lifelong reliance on the family unit for social and economic survival.

Karl Marx and Frederick Engels (1848) outlined the economic structures underpinning violence and acknowledged the family unit’s role in their work *The Communist Manifesto*;

On what foundation is the present family, the bourgeois family, based? On capital, on private gain. In its completely developed form this family exists only among the bourgeoisie...the bourgeois family will vanish as a matter of course when its complement vanishes, and both will vanish with the vanishing of capital. (p. 29)

Capitalism and the colonial state mutually construct the notion of family. Thus, the dismantling of capitalism would necessarily bring dissolution of the nuclear family, as the family unit’s central purpose is capitalist resource management, reproduction of the labor force, and regulation of capital. The family

is inextricably tied to capitalism’s requirements for reproduced labor of different values, the buoyant consumerism of the metropolitan economies and, as with all capitalist social relations, sexuality’s material construction is effected not only directly through the

market, but also mediated through the state's formal machineries and practices of citizenship. (Evans, 1993, p. 36)

In late capitalist societies, there is simultaneous privatization and commodification of family, sexuality, and sexual citizenship.

### **Conclusion: Queering Citizenship for Queer Liberation**

Both constructed by borders, tangible or ideological, citizenship classification models are reflective of colonial notions of normativity. The capitalist state, built upon othering, dehumanization, and endless domination, relies upon the weaponization of institutionalized identities to create division where there could be solidarity; "Who," Cathy Cohen (1997) questions, "is truly on the outside of heteronormative power—maybe most of us?" (p. 457). Most people, even those who are straight-identifying, are on the outside of heteronormative power to varying degrees. Queer liberation requires expanding our understanding of "queer" to all who are denied power, all white supremacist capitalist cisheteropatriarchy casts away as "deviant." Through this lens, opportunities arise for tenuous relationships—between white children and undocumented immigrants, for example—to work together in opposition to colonialism;

this lens allows for and promotes different types of allegiances, not only radicalized allegiances but also allegiances based on the positionality of people relative to the state which queers us all or produces a bond of unity needed for the type of mobilization that we're beginning to see. (Cohen, 2016)

Sexual violence is a queer issue because rates of sexual violence increase as one's distance from heteronormative power increases. Ending sexual violence thus relies upon dismantling the colonial state and its systems of dehumanization—of children, immigrants, and all "queers"

alike. As the colonial state queers us all and manufactures violence against us, the frameworks of radical queer politics and movements to end sexual violence must center liberation from the state and all forms of state detention. To foster solidarity among oppressed populations, we must “use the relative degrees of ostracization all sexual/cultural ‘deviants’ experience to build a basis of unity for broader coalition and movement work” (Cohen, 1997, p. 453). Integration of Cohen’s lens for coalition building—the understanding that most of us are queer—must correspond with the awareness that the queer versus normative binary is quite nebulous, albeit useful in harnessing solidarity. As we build unity through the acknowledgment that very few people are normative, “the process of queering must extend into a deconstruction of the binary between these terms as well” (Phelan, 2010, p. 140).

In identifying all citizenship as sexual citizenship—and identifying queer as all those who are denied sexual citizenship—queer theory may begin to use sexual citizenship as a measure of queer liberation. To transform the norms of citizenship is to destabilize normativity as a whole; “The question, then, is not ‘queer or not,’ or ‘how to make citizenship queer,’ but how to queer citizenship” (Phelan, 2010, p. 140). In queering citizenship, material constructions of citizenship may be viewed beyond the strictly legal lens, allowing for “the unseen of the crime” to be unveiled. Through recognition that we are all othered and queered in some way by colonialism, we may begin to queer citizenship, casting aside state-manufactured tensions for the greater goal of queer liberation and a future free of violence.

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